

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed July 13, 2005 (the "Office Action"). At the time of the Office Action, Claims 1-5 and 7-21 were pending in the Application. The Examiner rejected Claims 1-5 and 7-20 and withdrew Claim 21 from consideration. Applicants have added Claims 22-31. Applicants respectfully request reconsideration and allowance of all pending claims.

Finality of the Office Action

As an initial matter, Applicants respectfully submit that the Office Action was improperly made final by the Examiner. According to the Examiner, Applicants' amendments necessitated the new grounds of rejection presented in the Office Action. Office Action, p. 3. However, Applicants' previous amendments to independent claims 1 and 7 merely more clearly and distinctly claimed the subject matter Applicants regard as their invention, and in many cases removed limitations found in the claims. As such, Applicants respectfully submit that the Office Action was improperly made final, and request that the finality of the Office Action be removed.

Claim Rejections - 35 U.S.C. § 103

Claims 1-5 and 7-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,260,567 issued to Poppe, et al. ("*Poppe*") in view of U.S. Patent No. 6,083,585 issued to Cahill, et al. ("*Cahill*"). Applicants respectfully traverse these rejections for the reasons stated below.

In order to establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). Applicant respectfully submits that each and every element of Claims 1 and 10 is not found within the references cited by the Examiner.

Claim 1 recites:

A method for making a molded container from a plastic resin, comprising:
 contacting a plastic resin with an oxygen-depleted atmosphere;
 heating the plastic resin to a temperature at which the plastic resin can be extruded;
 extruding a quantity of the plastic resin into a mold;

blowing the plastic resin against the mold to form a molded container;
pressuring and flushing the molded container with an inert gas;
depressuring the molded container; and
releasing the molded container from the mold.

Applicants respectfully submit that the *Poppe-Cahill* combination suggested by the Examiner fails to teach, suggest, or disclose each and every one of these elements. For example, Cahill fails to teach, suggest, or disclose “pressuring and flushing the molded container with an inert gas.” Instead, *Cahill* discloses a reactive extrusion process where a starting polyester may be maintained under an inert atmosphere in an extruder prior to reacting the starting polyester with a functionally terminated polyolefin to produce a copolymer by transesterification. Col. 14, l. 65 - col. 15, l. 5; col. 15, ll. 47-58. This, however, occurs before extruding a quantity of the copolymer into a mold and blowing the copolymer against the mold to form a molded container. According to *Cahill*, “[w]hen prepared by transesterification in a reactive extruder as described above, the copolycondensates of this invention are typically first pelletized and then processed into bottles or films.” Col. 19, ll. 6-9. Because of this, *Cahill* fails to teach, suggest, or disclose pressuring and flushing the molded container with an inert gas as recited in Claim 1. As such, Applicants submit that the rejection of Claim 1 is improper, and respectfully request that the rejection of Claim 1 be withdrawn.

Similarly, Claim 7 recites:

A method for making a molded container from a plastic resin, comprising:
extruding a quantity of a plastic resin into a mold;
blowing the plastic resin against the mold to form a molded container;
pressuring and flushing the molded container with an inert gas;
depressuring the molded container; and
releasing the molded container from the mold.

As discussed above with regard to Claim 1, the *Poppe-Cahill* combination suggested by the Examiner fails to teach, suggest, or disclose “pressing and flushing the molded container with an inert gas.” Therefore, Applicants submit that the rejection of Claim 7 is also improper, and respectfully request that the rejection of Claim 7 be withdrawn.

Claims 2-5 and 8-20 each depend, directly or indirectly, from independents Claim 1 and 7. Therefore, Applicants submit that Claims 2-5 and 8-20 are also patentable over the cited art, for example, for reasons similar to those discussed above with regard to Claims 1 and 7, and respectfully request that the rejection of Claims 2-5 and 8-20 be withdrawn.

Applicants have also added Claims 22-31. Similar to Claims 1 and 7, independent Claims 22 and 28 each recite “pressing and flushing the molded container with a second inert gas.” Therefore, Applicants submit that Claims 22 and 28 are also patentable over the cited art, for example, for reasons similar to those discussed above with regard to Claims 1 and 7. Furthermore, Claims 22 and 28 recite “contacting a plastic resin with a first inert gas to remove absorbed oxygen from the plastic resin prior to extrusion,” which is not taught, suggested, or disclosed by the cited art. Therefore, Applicants submit that Claim 22 and 28 are also patentable over the cited art, and respectfully request the full allowance of Claims 22 and 28.

Claims 23-27 and 29-31 each depend, directly or indirectly, from independents Claim 22 and 28. Therefore, Applicants submit that Claims 23-27 and 29-31 are also patentable over the cited art, for example, for reasons similar to those discussed above with regard to Claims 22 and 28, and respectfully request full allowance of Claims 23-27 and 29-31.

CONCLUSION

Applicants respectfully submit that this Application is in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of the Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants have attached herewith a separate Transmittal to calculate the additional new claims fee, and a check in the amount of **\$325.00** to satisfy the fee under 37 C.F.R. 1.16 (h) and (i).

Applicants believe no other fee is currently due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any other fees or credit any overpayment to Deposit Account No. **02-0384 of BAKER BOTTS L.L.P.**

Respectfully submitted,

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